

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In re

CHADWICK MCKINLEY FERGUSON
and APRIL DAWN FERGUSON,

Debtors.

CHADWICK MCKINLEY FERGUSON
and APRIL DAWN FERGUSON,

Plaintiffs,

vs.

WASHINGTON STATE DEPARTMENT
OF LABOR AND INDUSTRIES, LARRY
VANCE, WAYNE MOLESWORTH,
MARICRUZ MEJIA, FAITH JEFFREY,

Defendants.

CASE NO. 20-13157-CMA

ADVERSARY CASE NO. 21-01000-CMA

ANSWER TO FIRST AMENDED
COMPLAINT AND AFFIRMATIVE
DEFENSES

Defendants, Washington State Department of Labor and Industries (the “Department”),
Larry Vance, Wayne Molesworth, Maricruz Mejia, and Faith Jeffrey hereinafter referred to as
“Defendants” in answer to Plaintiffs’ First Amended Complaint, admit, deny and allege as
follows:

I. JURISDICTION

1. Paragraph 1 calls for a legal conclusion and is, therefore, denied.
2. Paragraph 2 calls for a legal conclusion and is, therefore, denied.

- 1 3. Paragraph 3 calls for a legal conclusion and is, therefore, denied.
- 2 4. Paragraph 4 calls for a legal conclusion and is, therefore, denied.
- 3 5. Paragraph 5 calls for a legal conclusion and is, therefore, denied.
- 4 6. Defendants admit that the Debtors owe fines to the Department for which
- 5 collections were turned over to a state contracted collection agency, AllianceOne
- 6 Receivables Management, Inc., prior to the Debtors' December 30, 2020
- 7 bankruptcy petition.
- 8
- 9 7. Defendants admit that Faith Jeffrey is an employee of the Department of Labor and
- 10 Industries.
- 11 8. Defendants admit that Larry Vance is an employee of the Department of Labor and
- 12 Industries.
- 13 9. Defendants admit that Wayne Molesworth is an employee of the Department of
- 14 Labor and Industries.
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- 16 10. Defendants admit that Maricruz Mejia is an employee of the Department of Labor
- 17 and Industries.

18 **II. BACKGROUND FACTS**

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- 20 11. Defendants deny the allegations of paragraph 11.
- 21 12. Defendants admit that the Debtors filed bankruptcy on December 30, 2020 and
- 22 deny the remaining allegations of paragraph 12.
- 23 13. Defendants admit that on December 31, 2020, Debtors emailed notice of
- 24 bankruptcy and deny the remaining allegations in paragraph 13.
- 25
- 26

1 14. Defendants lack knowledge or information sufficient to form a belief regarding the
2 truth of the allegations of paragraph 14 and therefore denies the same.

3 15. Defendants lack knowledge or information sufficient to form a belief regarding the
4 truth of the allegations of paragraph 15 and therefore denies the same.

5 16. Defendants lack knowledge or information sufficient to form a belief regarding the
6 truth of the allegations of paragraph 16 and therefore denies the same.

7 17. Defendants lack knowledge or information sufficient to form a belief regarding the
8 truth of the allegations of paragraph 17 and therefore denies the same.

9 18. Defendants lack knowledge or information sufficient to form a belief regarding the
10 truth of the allegations of paragraph 18 and therefore denies the same.

11 19. Paragraph 19 calls for a legal conclusion and is, therefore, denied.

12 20. Paragraph 20 calls for a legal conclusion and is, therefore, denied.

13 21. Defendants lack knowledge or information sufficient to form a belief regarding the
14 truth of the allegations of paragraph 21 and therefore denies the same.

15 22. Defendants deny the allegations of paragraph 22.

16 23. Defendants admit the allegations in paragraph 23.

17 24. Defendants admit that there was a conditional license agreement with Chadwick
18 Ferguson and deny the remaining allegations.

19 25. Defendants lack knowledge or information sufficient to form a belief regarding the
20 truth of the allegations of paragraph 25 and therefore deny the same.

21 26. Paragraph 26 calls for a legal conclusion and is, therefore, denied.

22 27. Paragraph 27 calls for a legal conclusion and is, therefore, denied.

23 28. Paragraph 28 calls for a legal conclusion and is, therefore, denied.

29. Paragraph 29 calls for a legal conclusion and is, therefore, denied.

III. COUNT I - ENFORCEMENT OF AUTOMATIC STAY- DISPOSITION AND EXERCISE OF CONTROL OVER PROPERTY OF THE ESTATE

30. Defendants incorporate responses to paragraphs 1-29 in answer to paragraph 30.

31. Paragraph 31 calls for a legal conclusion and is, therefore, denied.

32. Paragraph 32 calls for a legal conclusion and is, therefore, denied.

33. Paragraph 33 calls for a legal conclusion and is, therefore, denied.

34. Defendants deny the allegations of paragraph 34.

35. Defendants deny the allegations of paragraph 35.

36. Paragraph 36 contains a request for relief to which no response is required. In the event a response is deemed required, Defendants deny that the Debtors are entitled to this relief.

IV. COUNT II - ENFORCEMENT OF AUTOMATIC STAY – ACTIONS DESIGNED TO COLLECT PRE-PETITION CLAIM

37. Defendants incorporate responses to paragraphs 1-36 in answer to paragraph 37.

38. Paragraph 38 calls for a legal conclusion and is, therefore, denied.

39. Paragraph 39 calls for a legal conclusion and is, therefore, denied.

40. Defendants lack knowledge or information sufficient to form a belief regarding the truth of the allegations of paragraph 40 and therefore deny the same.

41. Paragraph 41 contains a request for relief to which no response is required. In the event a response is deemed required, Defendants deny that the Debtors are entitled to this relief.

V. COUNT III - INJUNCTIVE RELIEF

42. Defendants incorporate response to paragraphs 1-41 in answer to paragraph 42.

43. Paragraph 43 calls for a legal conclusion and is, therefore, denied.

44. Paragraph 44 calls for a legal conclusion and is, therefore, denied.

45. Paragraph 45 calls for a legal conclusion and is, therefore, denied.

VI. COUNT IV - VIOLATION OF CIVIL RIGHTS 42 U.S.C. 1983 FOURTEENTH AMENDMENT – AGAINST EACH DEFENDANT STATE EMPLOYEES AND ACTORS, JEFFREY, VANCE, MOLEWORTH, MEJIA

46. Defendants incorporate responses to paragraphs 1-45 in answer to paragraph 46.

47. Paragraph 47 calls for a legal conclusion and is, therefore, denied.

48. Paragraph 48 calls for a legal conclusion and is, therefore, denied.

49. Paragraph 49 calls for a legal conclusion and is, therefore, denied.

50. Paragraph 50 calls for a legal conclusion and is, therefore, denied.

51. Paragraph 51 calls for a legal conclusion and is, therefore, denied.

52. Paragraph 52 calls for a legal conclusion and is, therefore, denied.

VII. COUNT V - VIOLATION OF CIVIL RIGHTS 42 U.S.C. 1983 EQUAL PROTECTION CLAUSE FOURTEENTH AMENDMENT – CLAIM AGAINST JEFFREY, VANCE, MOLEWORTH, MEJIA

53. Defendants incorporate responses to paragraphs 1-52 in answer to paragraph 53.

54. Paragraph 54 calls for a legal conclusion and is, therefore, denied.

55. Paragraph 55 calls for a legal conclusion and is, therefore, denied.

56. Paragraph 56 calls for a legal conclusion and is, therefore, denied.

57. Paragraph 57 calls for a legal conclusion and is, therefore, denied.

58. Paragraph 58 calls for a legal conclusion and is, therefore, denied.

1 59. Paragraph 59 calls for a legal conclusion and is, therefore, denied.

2 60. Paragraph 60 calls for a legal conclusion and is, therefore, denied.

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4 **VIII. COUNT VI - VIOLATION OF CIVIL RIGHTS 42 U.S.C. 1983 § 525(A)**
5 **DISCRIMINATION – CLAIM AGAINST DEFENDANTS JEFFREY, VANCE,**
6 **MOLEWORTH, MEJIA**

6 61. Defendants incorporate responses to paragraphs 1-60 in answer to paragraph 61.

7 62. Paragraph 62 calls for a legal conclusion and is, therefore, denied.

8 63. Paragraph 63 calls for a legal conclusion and is, therefore, denied.

9 64. Paragraph 64 calls for a legal conclusion and is, therefore, denied.

10 65. Paragraph 65 calls for a legal conclusion and is, therefore, denied.

11 66. Paragraph 66 calls for a legal conclusion and is, therefore, denied.

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13 **IX. COUNT VII - VIOLATION OF US CODE 525(A) DISCRIMINATION – CLAIM**
14 **AGAINST WASHINGTON STATE DEPARTMENT OF LABOR AND**
15 **INDUSTRIES**

16 67. Defendants incorporate responses to paragraphs 1-60 in answer to paragraph 67.

17 68. Paragraph 68 calls for a legal conclusion and is, therefore, denied.

18 69. Paragraph 69 calls for a legal conclusion and is, therefore, denied.

19 70. Paragraph 70 calls for a legal conclusion and is, therefore, denied.

20 71. Paragraph 71 calls for a legal conclusion and is, therefore, denied.

21 72. Paragraph 72 calls for a legal conclusion and is, therefore, denied.

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2 BY WAY OF ANSWER AND AFFIRMATIVE DEFENSES:

- 3 1. The summons and complaint were never properly served upon some or all of the
4 defendants or the process served was insufficient.
- 5 2. Plaintiffs have failed to state a claim upon which relief may be granted.
- 6 3. Plaintiffs' claims are barred by the statute of limitations.
- 7 4. Plaintiffs have failed to file a claim against the some or all of the defendants as
8 required by RCW 4.92.100 and .110.
- 9 5. Plaintiff has failed to exhaust administrative remedies and the plaintiffs' remedy is
10 administrative rather than judicial and therefore the action will not lie.
- 11 6. The injuries and damages, if any, claimed by the plaintiffs were proximately caused
12 or contributed to by the fault of plaintiffs as defined by RCW 4.22.015.
- 13 7. Defendants have not violated the automatic stay and have a legal basis for
14 claiming an exemption from the stay to exercise its police and regulatory powers.
- 15 8. Defendants are entitled to a relief from stay due to the plaintiffs' acts of bad faith.
- 16 9. The State of Washington and its agencies, including the Defendants in this action,
17 are not subject to civil suit for damages under the Eleventh Amendment of the
18 Constitution of the United States.
- 19 10. The issues in this complaint are moot because Chad Ferguson's license was
20 renewed on January 8, 2021.
- 21 11. All actions of the Defendants herein alleged as negligence, manifest a reasonable
22 exercise of judgment and discretion by authorized public officials made in the
23 exercise of governmental authority entrusted to them by law and are neither
24 tortious nor actionable.
- 25 12. Defendants at all times acted in good faith in the performance of their duties and
26 are therefore immune from suit for the matters charged in Plaintiffs' complaint.
13. Some or all of the defendants are immune from suit for the matters charged in
Plaintiffs' complaint.

- 1 14. If Plaintiffs suffered any damages, recovery therefor is barred by Plaintiffs’
2 failure to mitigate said damages. Such mitigation includes complying with the
3 legal requirements for licensure with the Department.
4 15. The claims against the defendants are barred by the doctrines of absolute, quasi-
5 judicial and quasi-prosecutorial immunity.
6 16. The claims alleged under 42 U.S.C. § 1983 against the state employees are barred
7 by the doctrine of qualified immunity.

8 WHEREFORE, Defendants pray that Plaintiffs’ complaint be dismissed with prejudice as to
9 the Defendants and that Plaintiffs take nothing by their complaint and that the Defendants be allowed
10 their costs and reasonable attorney fees herein. Defendants assert the right to amend this answer as
11 necessary.

12 DATED this 30th day of August, 2021.

13 ROBERT W. FERGUSON
14 Attorney General

15 /s/ Susan Edison

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17 SUSAN EDISON, WSBA No. 18293
18 Assistant Attorney General
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